IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Regular Second Appeal No.277 of 2007.

Date of decision:26.12.2007

Smt.Shoju Ram ….**Appellant**

Versus

Smt.Devku Devi ….**Respondent**

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Appellant: **Mr.R.K. Bawa, Senior Advocate with Mr.Inderjit Singh, Advocate.**

For the Respondent: **Mr.G.D. Verma, Senior Advocate with Mr.Romesh Verma, Advocate.**

Dev Darshan Sud,J.

This appeal has been filed by the plaintiff-appellant against the concurrent findings of the two Courts below dismissing his suit for declaration and injunction, as prayed for.

The appellant instituted the suit, out of which this appeal arises, for declaration and injunction that mutation No.114, dated 28.2.2005 passed by the Assistant Collector Ist Grade, Rampur, partitioning the suit land as described in the plaint is wrong and illegal as the defendant is not the co-owner in respect of this land. The learned trial

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgement***?

Court on consideration of the entire evidence held that the suit is not maintainable.

It is the case, as pleaded by the plaintiff, that partition proceedings were challenged before the Collector, Divisional Commissioner and the Financial Commissioner. The plaintiff submits that he was unsuccessful before the Assistant Collector, Sub Division, Rampur, Divisional Commissioner, Shimla and that the matter was pending before the Financial Commissioner. Learned counsel appearing for the respondent submits that even the Financial Commissioner has dismissed the appeal filed by the plaintiff.

Learned counsel appearing for the appellant has argued at length on various aspects of the case and submitted that the Courts below were wrong in reaching the conclusion that the suit was not maintainable.

On going through the record, I do not find that the judgment of the two Courts below is against law and that any substantial question of law arises for determination of this Court. The parties, litigated before the Revenue Authorities, with respect to the legality of the mutation/partition proceedings. The Courts below have rightly held that the respondent-defendant was entitled to such partition and that the mutation proceedings are not against the law.

On the facts on record, I do not find that there has been any error of law committed by the Courts below requiring the intervention of this Court. As noticed, no question of law much less substantial question of law arises for determination in this appeal. This appeal is, accordingly, dismissed. There shall be no order as to costs.

All the pending applications are dismissed.

December 26, 2007
(aks)

(Dev Darshan Sud)
Judge.